IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM :

THE HON'BLE MR.JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

Tax Case Appeal No.90 of 2012

M/s. Tube Investments of India Limited
'Dare House'
No.234, N.S.C. Bose Road
Chennai - 600 001 ..Appellant

Versus

The Deputy Commissioner of Income Tax
Large Taxpayer Unit
Chennai - 600 101 ..Respondent

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order dated 09.09.2011 passed in ITA No.1757/Mds/2010 on the file of Income Tax Appellate Tribunal, Chennai 'D' Bench against the order of the Commissioner of Income Tax Large Tax Payer (Appeals) 1775, Jawaharlal Nehru Inner Ring Road, Anna Nagar, Western Extension, Chennai –600 101 dated 19.08.2010 made in ITA.No.12/9-10/LTU(A) PAN.AAACT1249H for the Assessment year 1998-99 and against the order of the Commissioner of Income Tax (Appeals) VIII, 121, Mahatma Gandhi Road, Chennai–600 0034 dated 30.03.2007 ITA.No.139/2006-07/ Tr.16/A.VIII, PAN.AAACT1249H for the Assessment year 1998-99 and against the order of the Assistant Commissioner of Income Tax, Company Circle III (2), Chennai–34 dated 28.03.2006PAN.No. (GIR.No.32001-T Ward/Circle Range Company Circle -III (2) Chennai–34 for the Assessment year 1998-99.

For Appellant : Mr. K. Vaitheeswaran

For Respondent : Mr. T. Ravikumar
Senior Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by R. MAHADEVAN, J)

This Tax Case Appeal has been filed by the appellant / Revenue challenging the order dated 09.09.2011 passed by the Income Tax Appellate Tribunal, Bench 'D', Chennai ('the Tribunal', for brevity) in I.T.A.No.1757/mds/2010 for the Assessment Year 1998-1999.

2. The above appeal was admitted on 03.04.2012 on the following substantial questions of law :

> "1.Whether the Tribunal erred in law in holding that the penalty order dated 17.06.2009 passed by the Assessing Officer under Section 271 (1) (c) was not hit by the proviso to Section 275 (1) (a) of the Act and was within limitation as prescribed in the said section?
>
> 2. Whether on the facts and circumstances of the case, the Tribunal erred in law in holding that, satisfaction, as required for initiating penalty proceedings under Section 271 (1) (c) of the Act was recorded by the assessing officer in the assessment order?

3. When the appeal is taken up for consideration, the learned counsel appearing for the appellant/assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 30.08.2021 by the Income Tax Department. The learned counsel has also filed a memo to that effect. The aforesaid submission made by the learned counsel for the appellant/assessee has also been fairly conceded by the learned Senior Standing Counsel appearing for the respondent/Revenue.

4. This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matters connected therewith or incidental thereto, which came into force with effect from 17.03.2020; and the declarations submitted by the assessee were also accepted and Form 3 was also issued to them by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial questions of law arisen in this tax case appeal.

5. Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of,

directing the department to process the application at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal, Madras "D" Bench

2. The Deputy Commissioner of Income Tax
   Large Taxpayer Unit
   Chennai - 600 101

3. The Assistant Commissioner of Income Tax,
   Company Circle III (2),
   Chennai – 34.

TCA No. 90 of 2012

AD(CO)
RGA(05/01/2022)